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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/326,646	06/07/1999	SHERVIN PISHEVAR	55741.000003	4448

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EXAMINER

KYLE, CHARLES R

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n No.

09/326,646

licant(s)

PISHEVAR ET AL.

Examin r

Charles R Kyle

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-11, 13-17, 19, 36-40 and 42-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-11, 13-17, 19, 36-40 and 42-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 3624

## **DETAILED ACTION**

### ***Examiner's Note***

Examiner cites particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Claim Rejections - 35 USC § 112***

The rejections of Claims 2-11, 13-19, 19 and 36-45 under 35 U.S.C. 112 second of the prior office action are withdrawn based on Applicants' amendments

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2-11, 13-17, 19, 36-40 and 42-44** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Walker* in view of *Pallakoff*.

Art Unit: 3624

**Concerning Claim 2**, *Walker* discloses the invention substantially as claimed, including in a collective procurement management system (Abstract):

A processor (Fig 2, ele. 205);

A memory in communication with the processor (Fig 2, ele. 210), the memory storing a plurality of processing instructions that enable the processor to:

Receive a purchase request from each of a plurality of purchasers, each purchase request including a purchase price for an item (Summary of the Invention, particularly, Col. 3, lines 2-7);

Group said plurality of purchase requests, based on the item, into a collective procurement order (Col. 3, lines 8-24; Fig. 7);

Fulfill said collective procurement order with respect to each of said plurality of purchasers, based on each requested purchase price (Abstract, lines 14-16).

*Walker* does not specifically disclose the newly recited limitations. *Pallakoff* discloses these features as follows:

To receive, from at least one seller, a supply commitment for an item, the supply commitment including a plurality of supply prices, each supply price corresponding to a quantity of the item to be included in an order (Col. 13, lines 12-20);

To group the same (Col. 13, line 21);

To identify a final supply price for the collective procurement order based on the ordered quantity of the item in the collective procurement order and the supply commitment (Col. 13, lines 27-32);

Art Unit: 3624

To fulfill a collective procurement order considering supply commitments, at least one of said purchase requests being fulfilled at the final supply price when the final supply price is lower than the purchase price included in a purchase request (Col.11, lines 43-52).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the price/quantity and price reduction features disclosed by *Pallakoff* in combination with the invention of *Walker* because this would have provided aggregated supply opportunities for sellers to increase sales while providing price reduction for buyers, thus benefiting both sellers and buyers. See *Pallakoff* at Summary of the Invention.

**As to Claim 3**, *Walker* discloses an inventory database at Fig 6 and Col. 11, lines 10-21.

**With respect to Claims 4 and 5**, *Walker* discloses grouping by similar and same products at Fig. 7, eles. 705, 710 and 715.

**Concerning Claims 6-8**, *Walker* discloses the invention substantially as claimed. See the discussion of claim 2 above. *Walker* does not specifically disclose that an order is fulfilled based on meeting of a threshold condition of minimum number of purchasers or minimum product quantity. *Pallakoff* discloses these features at Col. 11, lines 25-27. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention of *Walker* with the thresholds of *Pallakoff* because this would have allowed the seller to specify conditions of sale which were most convenient and profitable for the sale.

Additionally, see Col. 10, line 57 to Col. 11, line 42. Additionally, both *Walker* and *Pallakoff*

Art Unit: 3624

are directed to buyer-driven procurement management systems and would be expected to have features compatible and useful to one another.

**Regarding Claim 9**, *Pallakoff* discloses minimum total order price at Col. 9, lines 5-17 and Fig. 8, ele. 32.

**Concerning Claim 10**, *Walker* discloses the invention as claimed, including in a method for fulfilling a collective procurement order between at least one supplier and a plurality of purchasers, the method comprising;

Receiving a purchase request from a plurality of purchasers, each purchase request including a purchase price for an item (Summary of the Invention, particularly, Col. 3, lines 2-7);

Receiving a supply commitment from at least one identified supplier for the identified item (Fig. 11, Col. 12, lines 24-36; Summary of the Invention);

Selectively grouping said plurality of purchase requests, based on said identified item, to create a collective procurement order (Col. 3, lines 8-24; Fig. 7);

Fulfilling said collective procurement order between said at least one supplier and said plurality of purchasers, based on each purchase price received from each of the plurality of purchasers ((Abstract, lines 14-16).

Additionally, see the discussion of Claim 2 for treatment of the newly claimed limitations.

**With respect to Claim 11**, *Walker* discloses plural suppliers fulfilling an order at Abstract.

**As to Claim 13**, see the discussion of Claims 10 and 8 above.

**With respect to Claim 14**, see the discussion of claim 10 and 7 above. It is assumed that claim 10 is intended to be the claim from which claim 14 depends.

**With respect to Claim 15**, see the discussion of claim 10 and 9 above. It is assumed that claim 10 is intended to be the claim from which claim 14 depends.

**As to Claim 16**, the Examiner takes official notice that varying quantity/pricing combinations were old and well-known in the art of procurement management. It would have been obvious to one of ordinary skill in the art at the time of the invention to have allowed buyers to provide such relationships to sellers because this would have given a seller a greater chance of meeting a buyer's wishes so as to complete a sale.

**With respect to Claim 17**, *Pallakoff* discloses multiple fulfillment levels at multiple prices at Col. 3, lines 44-45.

**With respect to Claim 19**, *Walker* discloses additional purchase conditions at Fig. 10 ele. 1060.

**With respect to Claim 36**, see the discussions of claims 2 and 10 above.

**As to Claim 37**, see the discussions of claim 36 and *Walker* discloses additional purchase conditions at Fig. 10 ele. 1060.

**With respect to Claim 38**, *Pallakoff* discloses notification of pending purchase groups at Col. 4, lines 12-19. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a profile to direct such advertising because "targeted advertising" by profiling was a well-known and effective way to maximize notification effectiveness for products.

**With respect to Claim 39**, *Pallakoff* discloses aggregate demand presentation at Fig.

2. In the trivial case in which each buyer requests 1 item, the claim limitation is met.

Additionally, indication of the number of buyers would be obvious to indicate a level of market activity. Such reporting was old and well-known at the time of the invention.

**Regarding Claim 40**, *Pallakoff* discloses indication of remaining time at Col. 4, lines 37-41.

**As to Claims 42 and 44**, see their respective independent claims and *Walker* discloses at least two purchasers providing different purchase prices at Fig. 7, ele. 790.

**As to Claim 43**, see the discussion of Claim 10 and *Walker* discloses consideration of a supply price at Col. 6, line 64 to Col., line 20.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles R Kyle whose telephone number is (703) 305-4458. The examiner can normally be reached on M-F 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent A Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.



Art Unit: 3624

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Examiner Charles Kyle

A handwritten signature in cursive script that reads "Charles Kyle". The signature is written in black ink and is positioned below the printed name "Examiner Charles Kyle".

crk

January 22, 2004